

06-09-2000

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

IT

15/15/00

To the Honorable Commissioner

101376485

original documents or copy thereof.

1. Name of conveying party(ies):

David S. Potter
Eduardo A. AlegriaAdditional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

3. Nature of conveyance:

☐ Assignment ☐ Merger☒ Agreement ☐ Change of Name☐ Other _____Execution Date: 07/31/97; 08/01/97

2. Name and address of receiving party(ies):

Name: PG&E Energy ServicesAddress: 345 California Street, 32nd FloorSan Francisco, California 94111Additional name(s) & address(es) attached? ☐ Yes ☒ No

4. Application number(s) or patent number(s):

A. Patent Application No.: 09/484,669Title: UNINTERRUPTIBLE POWER
GENERATION SYSTEMFiled Date: 01/18/00

B. Patent No(s):

Additional numbers attached? ☐ Yes ☒ NoIf this document is being filed together with a new application, the execution date of the application is: ??5. Name and address of party to whom
correspondence concerning document should
be mailed:Name: Brian I. Marcus, Esq.Address: Fliesler, Dubb, Meyer & LovejoyFour Embarcadero Center, Suite 400San Francisco, CA 94111Telephone: (415) 362-38006. Total Number of applications and patents involved: 1 X \$40.00 each7. Total fee (37 CFR 3.41).....\$ 40.00☒ Check Enclosed8. Fee Authorization. Authorization is given to charge
any additional fees or credit any overpayment
to Deposit Account No. 06-1325.Copy. (A duplicate copy of this authorization is **not**
enclosed.)

9. Statement and signature.

*To the best of my knowledge and belief, the foregoing information is true and correct and any attached
copy is a true copy of the original document.*Brian I. Marcus
Attorney (Reg. No.: 34,511)

Signature

May 10, 2000
Date10. Total number of pages to be recorded: 15 (1 page cover sheet and 14 page document).

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Attorney Docket No.: PGEES-01000US0
/bim/pgces/1000.008

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PATENT
REEL: 010834 FRAME: 0507

COPY

**AGREEMENT REGARDING PROPRIETARY RIGHTS,
CONFIDENTIALITY AND ARBITRATION**

This document memorializes an agreement between me and PG&E Energy Services Corporation, and reflects our understanding with respect to ownership of proprietary rights, treatment of confidential material, and the handling of disagreements between us, including employment disputes, through the use of arbitration. I recognize that my agreement as to these provisions is a material part of the consideration for my employment.

A. Definitions.

1. The following terms used in this Agreement are defined in Attachment 1, which is hereby incorporated by reference: "Company"; "Company Materials"; "Inventions"; "Moral Rights"; "Proprietary Information"; and "Rights".

B. Proprietary Rights.

1. I understand that the Company possesses and will possess Proprietary Information, Company Material and Inventions, which are important to its business. I agree that the Company has the exclusive right to all such Proprietary Information, Company Materials and Inventions related in any way to the Company's business, and that all Proprietary Information, Company Materials and Inventions are the sole property of the Company.
2. I agree that all Inventions which I make, conceive, reduce to practice or develop (in whole or in part, either alone or jointly with others) during my employment by the Company which relate in any way to the Company's business shall be the sole property of the Company. I agree that any copyrightable Proprietary Information, Company Material and/or Inventions developed by me in whole or in part is a work for hire.
3. I agree to perform, both during and at any time after my employment, all acts deemed necessary or desirable by the Company to assist it, at the Company's expense, in evidencing, perfecting, obtaining, maintaining, defending and enforcing Rights and/or my assignment with respect to such Proprietary Information, Company Materials, Inventions and Rights in any and all countries. Such acts may include, but are not limited to, execution of documents and assistance or cooperation in legal proceedings.
4. I have attached hereto as Attachment 2 a complete list of all existing Inventions to which I claim ownership as of the date of this Agreement and that I desire to remove from the operation of this Agreement, and I acknowledge and agree that such list is complete. If no such list is attached to this Agreement, I represent that I have no such Inventions at the time of signing this Agreement.
5. I hereby assign to the Company any Rights, including Moral Rights, which I may have or acquire in any Proprietary Information, Company Materials and Inventions to the maximum extent permitted by Section 2870 of the *California Labor Code* (a copy of

which is attached hereto as Attachment 3). To the extent such Moral Rights cannot be assigned under applicable law and to the extent allowed by the laws in the various countries where Moral Rights exist, I hereby waive such Moral Rights and consent to any action of the Company that would violate such Moral Rights in the absence of such consent.

6. I will promptly disclose in writing to my immediate supervisor, with a copy to the Chief Executive Officer of the Company, or to any other person designated by the Company, any Inventions which I make which may be covered by this Agreement. If I develop any Inventions during the course of my employment which are not related in any way to the Company's business, I may request the Company to confirm in writing that such Inventions are not within the scope of this Agreement.

C. Confidentiality and Noncompetition.

1. I understand that Proprietary Information, Company Material and Inventions owned by the Company have value to it. At all times, both during and after my employment by the Company, I will keep Proprietary Information strictly confidential and will not remove any Company Material from the business premises of the Company or otherwise deliver any Proprietary Information to any person or entity outside the Company, except as may be necessary in the ordinary course of performing my duties to the Company while I am employed by the Company, or upon the prior written consent of an officer of the Company.
2. I agree that during my employment by the Company I will not engage in any employment, business or activity that is in any way competitive with the business or proposed business of the Company, and I will not assist any other person or organization in competing with the Company or in preparing to engage in competition with the business or proposed business of the Company. The provisions of this paragraph shall apply both during normal working hours and at all other times including, without limitation, nights, weekends, vacation and holiday time, while I am employed by the Company.
3. During the term of my employment by the Company and for one (1) year thereafter, I will not encourage or solicit any employee or consultant of the Company to leave the Company for any reason. However, this obligation shall not affect any responsibility I may have as an employee of the Company with respect to the bona fide hiring and firing of Company personnel.
4. I represent that my performance of all the terms of this Agreement will not breach any agreement to keep in confidence proprietary information acquired by me in confidence or in trust prior to my employment by the Company. I have not entered into, and I agree I will not enter into, any agreement either written or oral in conflict with this Agreement or my employment by the Company.

D. Termination of Employment.

1. I agree that my employment with the Company is "at will", which means I have the right to resign and the Company has the right to terminate my employment at any time, for any reason, with or without cause. This is the full and complete agreement between myself and the Company on this term and can only be modified by a writing signed by me and the Chief Executive Officer of the Company.
2. I agree that, immediately upon the termination of my employment by me or by the Company for any reason, or during my employment if so requested by the Company, I will return all Company Material and any reproduction of such property, excepting only (i) my personal copies of records relating to my compensation or employment; (ii) my personal copies of any materials previously distributed generally to stockholders of the Company; and (iii) my copy of this Agreement.

E. Arbitration of Disputes.

1. I agree that any and all disputes I may have with the Company, or its officers, directors, employees or agents, that arise out of this Agreement, my employment by the Company or the termination of my employment, shall be resolved through final and binding arbitration in any County chosen by the Company that is located within 150 miles of the office in which I most recently worked, in accordance with the rules and regulations of the American Arbitration Association.
2. I understand that this includes, without limitation, any controversy, claim or dispute of any kind, including disputes relating to my employment with the Company or the termination thereof, claims for breach of contract or breach of the covenant of good faith and fair dealing, and any claims of discrimination or other claims under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the California Fair Employment and Housing Act, the Employee Retirement Income Securities Act, or any other federal, state or local law or regulation now in existence or hereinafter enacted and as amended from time to time concerning in any way the subject of my employment with the Company or its termination.
3. Notwithstanding the above, claims for benefits under the workers' compensation or unemployment insurance laws are not covered by this Agreement and will be resolved pursuant to those laws.
4. If there is a dispute between us, each party will split the cost of the arbitration filing and hearing fees and the cost of the arbitrator. Each party will bear its own attorneys' fees, that is, the arbitrator will not have the authority to award attorneys' fees unless a statutory section at issue in the dispute authorizes the award of attorneys' fees to the prevailing party, in which case the arbitrator has authority to make such award as permitted by the statute in question.

5. The final and binding arbitration shall be instead of any civil litigation. **I UNDERSTAND THAT THIS MEANS THAT I AM WAIVING ANY RIGHT TO A JURY TRIAL**, and that the arbitrator's decision shall be final and binding to the fullest extent permitted by law and enforceable by any court having jurisdiction thereof. I agree that my obligations under this Section E may be enforced by the Company at any time during or after my employment with the Company.

F. General Provisions.

1. I agree that any and all disputes concerning the meaning, effect or validity of this Agreement shall be resolved in accordance with the laws of the State of California without regard to its conflict of laws provisions.
2. I further agree that if one or more provisions of this Agreement are held to be illegal or unenforceable under applicable law, such provision(s) shall be limited or excluded from this Agreement and the balance of the Agreement shall be interpreted as if such provisions were so limited or excluded and shall be enforceable in accordance with its terms.
3. This Agreement shall be effective as of the date I execute this Agreement and shall be binding upon me, my heirs, executors, assigns, and administrators and shall inure to the benefit of the Company and its officers, directors, employees and agents.
4. This Agreement is the full and complete agreement between me and the Company regarding the terms of this Agreement. This Agreement may only be modified by a subsequent written agreement executed by the Chief Executive Officer of the Company and me.

I HAVE READ THIS AGREEMENT CAREFULLY AND I UNDERSTAND AND ACCEPT THE OBLIGATIONS WHICH IT IMPOSES UPON ME WITHOUT RESERVATION. NO PROMISES OR REPRESENTATIONS HAVE BEEN MADE TO ME TO INDUCE ME TO SIGN THIS AGREEMENT. I SIGN THIS AGREEMENT VOLUNTARILY AND FREELY.

Dated: 7/31/97


[Signature of Employee]

David S. Potter
[Print Name of Employee]

ATTACHMENT 1

Definitions. This section defines the meaning of certain terms used in this Agreement.

- A. **"Company"** includes PG&E Energy Services Corporation, a California corporation, its direct or indirect parent companies, subsidiaries, affiliates, predecessors, successors and/or assigns.
- B. **"Proprietary Information"** is information that was or will be developed, created, or discovered by or on behalf of the Company, or which became or will become known by, or was or is conveyed to the Company, which has commercial value in the Company's business. This definition is intended to apply broadly to all types of information, such as trade secrets, copyrights, techniques, Inventions (whether patentable or not), technical data, and any other information relating to designs, source code, object code, executable code, algorithms, works of authorship, research, products, services, software, processes, finances, operations, manufacture, forecasts, the salaries, duties, qualifications, performance levels, and terms of compensation of other employees, cost or financial data concerning any of the foregoing, the Company and/or its operations generally, and market, customer and pricing information that is proprietary to the Company and not known publicly.
- "Proprietary Information"** does not include information known publicly or generally employed in the trade.
- C. **"Company Materials"** are documents or other media that contain or embody Proprietary Information or any other information concerning the business, operations or plans of the Company, whether such material has been prepared by me or by others and other tangible items, including, but not limited to, Proprietary Information, Inventions, computers, cellular telephones, disks, apparatus, equipment and other physical property, blueprints, drawings, photographs, charts, graphs, notebooks, customer lists, computer disks, tapes or other printed, typewritten or handwritten documents.
- D. **"Rights"** are all right, title and/or interest in, to and under any patents, patent rights, copyrights, trade secrets, trademarks, intellectual and other property rights anywhere in the world in connection therewith.
- E. **"Moral Rights"** are rights of paternity, integrity, disclosure and withdrawal and any other rights that may be known as or referred to as "moral rights".
- F. **"Inventions"** are such improvements, inventions, works of authorship, trade secrets, technology, computer programs, formulas, compositions, designs, processes, techniques and data, whether or not patentable or copyrightable, made, conceived or reduced to practice or developed by or on behalf of the Company.

ATTACHMENT 2

1. The following is a complete list of all Inventions (as defined in the attached Agreement Regarding Proprietary Rights, Confidentiality and Arbitration, the "Agreement") relevant to the subject matter of my employment by the Company that have been made, conceived, developed or first reduced to practice by me alone or jointly with others before my employment with the Company that I desire to remove from the operation of the Agreement.

☒ No inventions or improvements


☐ See below:

☐ Additional sheets attached

2. I propose to bring to my employment the following nonproprietary materials and documents of a former employer:

☒ No materials or documents

☐ See below:



Employee

MAY. 8. 2000 3:02PM

ENERGY SERVICES

NO. 2752 P. 15

ATTACHMENT 3

California Labor Code

Section 2870. *Application of provision providing that employee shall assign or offer to assign rights in invention to employer.*

(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:

(1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer.

(2) Result from any work performed by the employee for his employer.

(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable.

COPY

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This document memorializes an agreement between me and PG&E Energy Services Corporation, and reflects our understanding with respect to ownership of proprietary rights, treatment of confidential material, and the handling of disagreements between us, including employment disputes, through the use of arbitration. I recognize that my agreement as to these provisions is a material part of the consideration for my employment.

A. Definitions.

1. The following terms used in this Agreement are defined in Attachment 1, which is hereby incorporated by reference: "Company"; "Company Materials"; "Inventions"; "Moral Rights"; "Proprietary Information"; and "Rights".

B. Proprietary Rights.

1. I understand that the Company possesses and will possess Proprietary Information, Company Material and Inventions, which are important to its business. I agree that the Company has the exclusive right to all such Proprietary Information, Company Materials and Inventions related in any way to the Company's business, and that all Proprietary Information, Company Materials and Inventions are the sole property of the Company.
2. I agree that all Inventions which I make, conceive, reduce to practice or develop (in whole or in part, either alone or jointly with others) during my employment by the Company which relate in any way to the Company's business shall be the sole property of the Company. I agree that any copyrightable Proprietary Information, Company Material and/or Inventions developed by me in whole or in part is a work for hire.
3. I agree to perform, both during and at any time after my employment, all acts deemed necessary or desirable by the Company to assist it, at the Company's expense, in evidencing, perfecting, obtaining, maintaining, defending and enforcing Rights and/or my assignment with respect to such Proprietary Information, Company Materials, Inventions and Rights in any and all countries. Such acts may include, but are not limited to, execution of documents and assistance or cooperation in legal proceedings.
4. I have attached hereto as Attachment 2 a complete list of all existing Inventions to which I claim ownership as of the date of this Agreement and that I desire to remove from the operation of this Agreement, and I acknowledge and agree that such list is complete. If no such list is attached to this Agreement, I represent that I have no such Inventions at the time of signing this Agreement.
5. I hereby assign to the Company any Rights, including Moral Rights, which I may have or acquire in any Proprietary Information, Company Materials and Inventions to the maximum extent permitted by Section 2870 of the *California Labor Code* (a copy of

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- "Proprietary Information"** does not include information known publicly or generally employed in the trade.
- C. **"Company Materials"** are documents or other media that contain or embody Proprietary Information or any other information concerning the business, operations or plans of the Company, whether such material has been prepared by me or by others and other tangible items, including, but not limited to, Proprietary Information, inventions, computers, cellular telephones, disks, apparatus, equipment and other physical property, blueprints, drawings, photographs, charts, graphs, notebooks, customer lists, computer disks, tapes or other printed, typewritten or handwritten documents.
- D. **"Rights"** are all right, title and/or interest in, to and under any patents, patent rights, copyrights, trade secrets, trademarks, intellectual and other property rights anywhere in the world in connection therewith.
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which is attached hereto as Attachment 3). To the extent such Moral Rights cannot be assigned under applicable law and to the extent allowed by the laws in the various countries where Moral Rights exist, I hereby waive such Moral Rights and consent to any action of the Company that would violate such Moral Rights in the absence of such consent.

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2. I agree that during my employment by the Company I will not engage in any employment, business or activity that is in any way competitive with the business or proposed business of the Company, and I will not assist any other person or organization in competing with the Company or in preparing to engage in competition with the business or proposed business of the Company. The provisions of this paragraph shall apply both during normal working hours and at all other times including, without limitation, nights, weekends, vacation and holiday time, while I am employed by the Company.
3. During the term of my employment by the Company and for one (1) year thereafter, I will not encourage or solicit any employee or consultant of the Company to leave the Company for any reason. However, this obligation shall not affect any responsibility I may have as an employee of the Company with respect to the bona fide hiring and firing of Company personnel.
4. I represent that my performance of all the terms of this Agreement will not breach any agreement to keep in confidence proprietary information acquired by me in confidence or in trust prior to my employment by the Company. I have not entered into, and I agree I will not enter into, any agreement either written or oral in conflict with this Agreement or my employment by the Company.

D. Termination of Employment.

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2. I agree that, immediately upon the termination of my employment by me or by the Company for any reason, or during my employment if so requested by the Company, I will return all Company Material and any reproduction of such property, excepting only (i) my personal copies of records relating to my compensation or employment; (ii) my personal copies of any materials previously distributed generally to stockholders of the Company; and (iii) my copy of this Agreement.

E. Arbitration of Disputes.

1. I agree that any and all disputes I may have with the Company, or its officers, directors, employees or agents, that arise out of this Agreement, my employment by the Company or the termination of my employment, shall be resolved through final and binding arbitration in any County chosen by the Company that is located within 150 miles of the office in which I most recently worked, in accordance with the rules and regulations of the American Arbitration Association.
2. I understand that this includes, without limitation, any controversy, claim or dispute of any kind, including disputes relating to my employment with the Company or the termination thereof, claims for breach of contract or breach of the covenant of good faith and fair dealing, and any claims of discrimination or other claims under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the California Fair Employment and Housing Act, the Employee Retirement Income Securities Act, or any other federal, state or local law or regulation now in existence or hereinafter enacted and as amended from time to time concerning in any way the subject of my employment with the Company or its termination.
3. Notwithstanding the above, claims for benefits under the workers' compensation or unemployment insurance laws are not covered by this Agreement and will be resolved pursuant to those laws.
4. If there is a dispute between us, each party will split the cost of the arbitration filing and hearing fees and the cost of the arbitrator. Each party will bear its own attorneys' fees, that is, the arbitrator will not have the authority to award attorneys' fees unless a statutory section at issue in the dispute authorizes the award of attorneys' fees to the prevailing party, in which case the arbitrator has authority to make such award as permitted by the statute in question.

5. The final and binding arbitration shall be instead of any civil litigation. **I UNDERSTAND THAT THIS MEANS THAT I AM WAIVING ANY RIGHT TO A JURY TRIAL**, and that the arbitrator's decision shall be final and binding to the fullest extent permitted by law and enforceable by any court having jurisdiction thereof. I agree that my obligations under this Section E may be enforced by the Company at any time during or after my employment with the Company.

F. General Provisions.

1. I agree that any and all disputes concerning the meaning, effect or validity of this Agreement shall be resolved in accordance with the laws of the State of California without regard to its conflict of laws provisions.
2. I further agree that if one or more provisions of this Agreement are held to be illegal or unenforceable under applicable law, such provision(s) shall be limited or excluded from this Agreement and the balance of the Agreement shall be interpreted as if such provisions were so limited or excluded and shall be enforceable in accordance with its terms.
3. This Agreement shall be effective as of the date I execute this Agreement and shall be binding upon me, my heirs, executors, assigns, and administrators and shall inure to the benefit of the Company and its officers, directors, employees and agents.
4. This Agreement is the full and complete agreement between me and the Company regarding the terms of this Agreement. This Agreement may only be modified by a subsequent written agreement executed by the Chief Executive Officer of the Company and me.

I HAVE READ THIS AGREEMENT CAREFULLY AND I UNDERSTAND AND ACCEPT THE OBLIGATIONS WHICH IT IMPOSES UPON ME WITHOUT RESERVATION. NO PROMISES OR REPRESENTATIONS HAVE BEEN MADE TO ME TO INDUCE ME TO SIGN THIS AGREEMENT. I SIGN THIS AGREEMENT VOLUNTARILY AND FREELY.

Dated: 5/1/97

Eduardo A. Alegria
[Signature of Employee]

Eduardo A. Alegria
[Print Name of Employee]

ATTACHMENT 2

1. The following is a complete list of all Inventions (as defined in the attached Agreement Regarding Proprietary Rights, Confidentiality and Arbitration, the "Agreement") relevant to the subject matter of my employment by the Company that have been made, conceived, developed or first reduced to practice by me alone or jointly with others before my employment with the Company that I desire to remove from the operation of the Agreement.

☒ No inventions or improvements

☐ See below:

☐ Additional sheets attached

2. I propose to bring to my employment the following nonproprietary materials and documents of a former employer:

☒ No materials or documents

☐ See below:

Edwards A. Wilczynski
Employee

ATTACHMENT 3

California Labor Code

Section 2870. *Application of provision providing that employee shall assign or offer to assign rights in invention to employer.*

(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:

(1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer.

(2) Result from any work performed by the employee for his employer.

(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable.